HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:28212 OF 2007

Dated:28.12.2007

Between:

M/s. Sri Laxmi Venkateswara Traders,
Tadepalligudem, West Godavari,
Rep., by its Proprietor
A. Venkateswara Rao.

..Petitioner

And

1. The Commercial Tax Officer,
Tadepalligudem and another.

..Respondents.

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HONOURABLE MRS. JUSTICE T.MEENA KUMARI
&
HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:28212 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition is filed by the petitioner seeking to declare the order dated 23.10.2007 passed by the 2nd respondent, as illegal and arbitrary and consequently, to restrain the 1st respondent from collecting the disputed tax due for the assessment year 1995-96 pending disposal of the appeal before the Sales Tax Appellate Tribunal.

The main grievance of the petitioner is that aggrieved by the revision proceedings as to the assessment, an appeal has been preferred before the Sales Tax Appellate Tribunal. The petitioner has also moved an application before the 2nd respondent seeking stay of collection of the disputed tax. But the 2nd respondent rejected the stay application. Pursuant to the said rejection order, the 1st respondent is threatening to take coercive steps for recovery of the disputed tax. Hence, the present writ petition has been preferred by the petitioner.

Heard the learned Counsel appearing for the petitioner and the learned Special Standing Counsel for Commercial Tax and perused the material available on record.

It is the contention of the learned Counsel for the petitioner that the appeal against the revision proceedings is pending before the Sales Tax Appellate Tribunal and at this stage, the 2nd respondent is not justified in rejecting the stay application. It is further contended that taking advantage of the rejection of stay, the 1st respondent is threatening to take coercive steps and in these circumstances, if the relief of stay is not entertained and if the recovery of disputed tax is effected, the very purpose of filing the appeal before tribunal would be defeated.

In the facts and circumstances of the case and in view of the fact that the appeals are pending before the Tribunal, without expressing any opinion on the merits of the case, We feel it a fit case wherein stay can be granted, but subject to certain conditions.

Accordingly, there shall be stay of recovery of the disputed tax pending disposal of the appeal before the Tribunal subject to the condition of the petitioner depositing 50% of the disputed tax, within a period of six weeks from today. However, it is made clear that the amount paid if any, shall be given credit to the above stipulated sum.

Subject to the above direction, the writ petition is disposed of. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Rohini

Date: 28th December, 2007

Nn/Gurc.

HONOURABLE MRS. JUSTICE T.MEENA KUMARI

&

HONOURABLE MS JUSTICE G. ROHINI

WRIT PETITION No:28212 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

28/12/2007